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Security Council

Sixty-fifth year

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Tuesday, 29 June 2010, 11 a.m.

New York

President:	Mr. Gómez Robledo	(Mexico)
Members:	Austria	Mr. Mayr-Harting
	Bosnia and Herzegovina	Ms. Čolaković
	Brazil	Mrs. Viotti
	China	Mr. Wang Min
	France	Ms. Le Fraper du Hellen
	Gabon	Mr. Moungara Moussotsi
	Japan	Mr. Takasu
	Lebanon	Mr. Salam
	Nigeria	Mrs. Ogwu
	Russian Federation	Mr. Churkin
	Turkey	Mr. Çorman
	Uganda	Mr. Rugunda
	United Kingdom of Great Britain and Northern Ireland	Sir Mark Lyall Grant
	United States of America	Ms. McLeod

Agenda

The promotion and strengthening of the rule of law in the maintenance of international peace and security

Letter dated 18 June 2010 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General (S/2010/322)

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10-42676 (E)

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The meeting was called to order at 11.10 a.m.

Adoption of the agenda

The agenda was adopted.

The promotion and strengthening of the rule of law in the maintenance of international peace and security

Letter dated 18 June 2010 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General (S/2010/322)

The President (*spoke in Spanish*): I should like to inform the Council that I have received letters from the representatives of Argentina, Armenia, Azerbaijan, Australia, Botswana, Canada, Denmark, Finland, Germany, Guatemala, Italy, Liechtenstein, Norway, Peru, the Republic of Korea, Solomon Islands, South Africa and Switzerland, in which they request to be invited to participate in the consideration of the item on the Council's agenda.

In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President (*spoke in Spanish*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations.

It is so decided.

I invite Ms. O'Brien to take a seat at the Council table.

I should also like to inform the members of the Council that I have received a letter from His Excellency Mr. Pedro Serrano, in which he requests to be invited, in his capacity as acting head of the delegation of the European Union to the United Nations, to participate in the consideration of the item on the Council's agenda.

If I hear no objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Serrano.

It is so decided.

I invite Mr. Pedro Serrano to take the seat reserved for him at the side of the Council Chamber.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I wish to draw the attention of members of the Council to document S/2010/322, which contains a letter dated 18 June 2010 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General, transmitting a concept paper on the item under consideration.

At this meeting, the Security Council will hear briefings by Her Excellency Ms. Asha-Rose Migiro, Deputy Secretary-General, and by Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations.

I now invite the Deputy Secretary-General to take the floor.

Ms. Migiro: Thank you, Mr. President, for convening this debate. The Secretariat welcomes the opportunity to review progress in strengthening the rule of law in the maintenance of peace and security. Mexico has been a steadfast friend of the rule of law here in the Security Council and in the General Assembly. Its leadership, in cooperation with Liechtenstein, has been instrumental in establishing the near-system-wide arrangements for the rule of law, which I chair.

The rule of law is a broad and complex concept imbedded in the history of all cultures and nations, as well as in the longstanding efforts of States to create an international community based on law. Accordingly, the United Nations has a broad and ambitious agenda in this area, which is not easily realized and is often underestimated. A look back at the debates of 2004 and 2006 makes it clear that the Council and the

Organization as a whole have been moving in the right direction.

It is significant that this debate has expanded, from a focus on the rule of law in war-torn societies, to include strengthening the rule of law at the international level. This evolution reflects the Council's special responsibility to maintain international peace and security in conformity with the principles of justice and international law under the United Nations Charter. It also recognizes that the mutually reinforcing links between the rule of law at the national and international levels are substantial and multifaceted. And it is rooted in the fundamental principle that the Organization must act in accordance with fundamental standards of human rights in its own activities, operations and practices. Adherence to the rule of law begins at home. As the world faces new and evolving threats to international peace and security such as transnational organized crime, terrorism and piracy, the Security Council should place the rule of law at the centre of its response.

Strengthening national laws, security and justice systems in a sustainable and nationally owned manner is vital. Action at the international, regional and domestic levels must be aligned and grounded in international norms and standards. The principle that all individuals and entities, including States, are accountable to the law lies at the heart of the rule of law at both the national and international levels. All mechanisms — judicial and non-judicial — that secure compliance with or enforce international law require strengthening.

The International Court of Justice has a special role to play in the peaceful settlement of disputes before intractable conflict and post-conflict situations arise. Strengthening the relationship between the Council and the Court will fortify the rule of law. When prevention fails, we need to help fill the rule-of-law vacuum that often ensues. The Council has developed new ways to promote compliance with international humanitarian law and to better protect civilians, particularly children and women caught up in armed conflict. By establishing ad hoc and hybrid tribunals, the Council has been at the forefront of the campaign for individual accountability for crimes under international law.

This month we witnessed a historic agreement on the definition of aggression, by States parties to the Rome Statute. The Council has a unique role in furthering the fight against impunity. In that realm, the link between international and national rule of law is clear. As a prevention tool, the United Nations should prioritize security, access to justice and legal protection for all in order to make it more likely that disputes within society are resolved through legal, rather than violent, means. Assisting the host countries of peacekeeping operations to strengthen their justice and security institutions in accordance with these standards is central to sustainable peace.

In response to international crimes, the United Nations must redouble its efforts to build national capacities to hold alleged perpetrators accountable. One promising initiative is the effort to create a deployable team of rule-of-law experts to assist national authorities in addressing sexual violence in armed conflict, as mandated in resolution 1888 (2009). Rule-of-law activities have also been bolstered by the Peacebulding Commission and Fund. Still, more strategic focus is needed, as the rule of law is both a desired end state and a fundamental and coherent approach to that end.

The objective is to enhance the delivery of safety and security, legal protection, access to justice for all and the peaceful settlement of disputes as means to avoid the risk of relapse into conflict. Gaps persist in the response to rule-of-law challenges, including with respect to informal justice systems and economic and social justice. Responses to housing, land and property disputes for returning refugees, displaced persons and vulnerable groups remain ad hoc. Failure to uphold the law in response to organized crime and illicit trafficking can fuel violence and increase regional instability. Combating corruption is essential to maintain and restore public confidence in the State.

Sustained attention by the Council to the rule of law and transitional justice has helped the Organization coalesce around a common language and guiding principles for this work, such as the importance of national ownership. Since 2006, the United Nations system has enhanced its capacities. The Office of Rule of Law and Security Institutions was established in the Department of Peacekeeping Operations, bringing together police, justice, corrections, disarmament, demobilization and reintegration, security sector reform and mine action capacities. A rapidly deployable standing police capacity will soon be augmented by the standing justice and corrections

capacity. The United Nations Development Programme's Bureau for Crisis Prevention and Recovery is currently delivering rule-of-law assistance worth $202 million in more than 20 conflict and post-conflict settings, supported by a global programme. The deployable mediation team of the Department of Political Affairs provides advice on rule-of-law issues such as constitution-making.

United Nations actors are increasingly integrating their country programming, as in Haiti and the Sudan. Joint United Nations action should be strongly encouraged as the way forward, as was recently mandated in resolution 1925 (2010), concerning the Democratic Republic of the Congo.

In late 2006, the Secretary-General informed the Council of the establishment of a division of labour in the area of the rule of law, and of the creation of the Rule of Law Coordination and Resource Group. Under my leadership, the Group brings together the nine United Nations departments and agencies most engaged in rule of law activities, supported by the Rule of Law Unit in my Office. The Group is the system-wide focal point for coordination, coherence and quality control of United Nations engagement in this field.

Still, the Organization faces major challenges and constraints. First, we need to recruit, train and retain high-quality personnel and deploy them in a rapid, consistent and predictable manner.

Secondly, the financial resources allocated for strengthening the rule of law in fragile conflict and post-conflict settings have not matched the rhetoric in importance.

Thirdly, the external environment, including that of donors and providers of bilateral assistance, remains fragmented. This crowded field spans the legal, development, security and political disciplines, yet no global forum exists for dialogue among stakeholders.

Fourthly, we need more consistent and comprehensive needs and threat assessment if we are to ensure early and strategic responses. Better, ongoing monitoring is also required to evaluate the impact of our efforts.

Fifthly, we must be sure to take a strategic, system-wide approach that includes security sector reform and equal attention to all components of the justice system, including prisons.

Sixthly, the political nature of the exercise must be recognized. The rule of law is linked to sovereignty, control over the use of force and resources and other sensitive matters. We need to do more to address the political and institutional aspects of rule of law development, and to bring national and international leadership on board.

The rule of law will continue to be central in meeting the challenges of our time. The Council's continued engagement is essential. Together we can support sustained, coherent and well-resourced efforts to strengthen the rule of law at both the national and international levels, and to ensure that it can play its rightful role in building a better world for all.

The President (*spoke in Spanish*): I thank the Deputy Secretary-General for her briefing to the members of the Council.

I now give the floor to Under-Secretary-General Patricia O'Brien.

Ms. O'Brien: Thank you for your welcome, Mr. President, and for the opportunity to participate in this debate. I am pleased to support your initiative to bring this important issue to the Council for further discussion. At the outset, I wish to acknowledge the leadership that the Deputy Secretary-General has shown on this matter.

My focus today will be on the rule of law at the international level. Establishing respect for the concept is essential, not just to establish or to maintain peace, but also to enable sustained economic progress and development. I hope to demonstrate how this legal perspective has contributed to a trend towards an international rule of law. In doing so, I will first refer to those instances where the Organization reaches out to the world and strives to contribute to the establishment of an international rule of law. But I would also like to draw attention to some less visible aspects of the rule of law for the United Nations and, more specifically, within the United Nations. In our Organization, acting in conformity with legal requirements is a constant and dynamic pattern that is present in all our activities. In other words, respect for the rule of law is, for the Organization, a goal to be achieved every day.

We live in an age in which international law is no longer the exclusive domain of international courts and institutions. The links between the individual, the

nation State and the international community are now inextricably connected. International law issues are increasingly being considered by national and regional courts. This evolution goes even beyond national and regional courts: international law has become part of our everyday lives. Its basic principles contribute essentially to the empowerment of each individual. The personalization of international law, in which more and more rights are vested directly in the individual, is now a reality. Everyone should have access to the tools enabling him or her to understand international law, to invoke it and to contribute to its development.

An important aspect of the rule of law at the international level refers to the codification of international law and legal obligations, as well as to the implementation of and compliance with these obligations, whether they arise from treaties or customary international law. This concept is rooted in part in the multilateral conventional framework largely developed under United Nations auspices. For the past decade, the Secretary-General has been providing special facilities for States to sign or ratify treaties of which he is the depositary through an annual treaty event held during the high-level segment of the General Assembly. This event has proved a catalyst for encouraging wider participation in the multilateral treaty framework.

The concept of rule of law also translates into initiatives to promote the application of international law through technical assistance to Member States. We have developed a significant number of training initiatives and publications encompassing several branches of international law. But more needs to be done. This is particularly true in post-conflict environments. Another practical way to make tangible the concept of rule of law at the international level lies in our ability to encourage the teaching, study, dissemination and wider appreciation of international law. The development of the United Nations Audiovisual Library is an essential outreach tool of our time, both for demystifying international law and for making it more accessible, better understood and closer to the individual.

I take this opportunity to highlight the work of a less obvious, but very important, area of our endeavours, that of the United Nations Commission on International Trade Law (UNCITRAL), which is the core legal body within the United Nations system in the field of international commercial law. UNCITRAL's work on unifying and harmonizing international commercial law has played an important role in laying the basis for the orderly functioning of an open economy. Effective commercial law plays a supportive role in addressing root causes of many international problems, such as migration caused by impoverishment, inequality and internal conflicts, or inequitable access to shared resources. Next week, UNCITRAL will host a panel discussion, to be opened by the Deputy Secretary-General, that will analyse the impact of commercial law and commercial activities on the rule of law. Such a thematic debate is rare in the United Nations, where the traditional focus in the context of the rule of law has been on human rights, criminal law and international public law.

The Charter envisages a system of settling disputes peacefully before intractable conflict situations arise. The General Assembly, the Security Council and the International Court of Justice all have a responsibility to contribute to the peaceful settlement of disputes. However, the fullest use has not always been made of the organic link between these bodies and the procedural means made available to them by the Charter to coordinate and complement their respective action.

In 2006, the then President of the Court recalled both Article 33 of the Charter, under which the Security Council may call on the parties to settle their disputes by means that include judicial settlement, and Article 36, paragraph 3, which provides that in making recommendations for the settlement of disputes,

> "the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice".

In doing so, she invited the Council to bring these tools to life and to make them a central policy of the Security Council. I take this opportunity to encourage members of the Council to follow up on this recommendation. I would also encourage those States that have yet to deposit declarations accepting the jurisdiction of the Court to do so, and to do so as unconditionally as possible.

Another essential component of the rule of law at the international level is, of course, the struggle to end impunity for international crimes. International criminal justice has recently emerged as a powerful, resonant and effective voice in this new age of

accountability. The Council has amply emphasized the importance it attaches to the responsibility of States to comply with their obligations to end impunity and to prosecute those responsible for the most serious crimes.

Justice is a nation's choice. The primary role of national jurisdictions in the prosecution of crimes has been thrown into greater relief as international justice has evolved and as the International Criminal Court in particular has become operational. The principle of complementarity is the bedrock of international criminal justice.

International justice mechanisms, whether permanent or ad hoc, are not intended to supplant States where there are organized criminal justice systems that are willing and able to ensure that there is accountability for the crimes concerned. They are not substitutes for national mechanisms. Thus we see that, within the statutes of the international criminal courts and tribunals, there is ample room for the exercise of national jurisdiction.

Any discussion on the rule of law at the international level should address the ongoing issue of Security Council sanctions regimes. These regimes perform a necessary role in the maintenance of international peace and security. In so doing, it is critical that, as with any decision of the Council, sanctions be adopted in accordance with international law, consistent with the objectives enshrined in the Charter.

Over the past years, the Council has put emphasis on setting out and strengthening the international legal framework and norms for addressing these issues.

The recent adoption of resolution 1904 (2009) reflects the significant effort to address the rights of due process and, in particular, that of an effective review of decisions. The establishment of an Office of the Ombudsperson is an important step by the Security Council towards ensuring fair and clear procedures for individuals and entities listed by the Committee. We will follow with great interest how the interaction between the Ombudsperson and the Committee on the one hand, and between the Ombudsperson and the petitioners, on the other, works in practice. Much may depend on how the Ombudsperson's observations will be dealt with by the Committee. It will also be instructive to see what impact resolution 1904 (2009) and its implementation will have on the jurisprudence of national and regional courts seized with relevant cases.

No discussion regarding rule of law and the United Nations would be complete without addressing the system for the internal administration of justice, particularly since we are about to reach the first anniversary of the new system.

For 60 years, the internal mechanism for resolving employment disputes consisted of review by a peer review body composed of staff members, followed by a review by the United Nations Administrative Tribunal. The new system called for by the General Assembly in 2005 has introduced two tiers of judicial review. This became operational on 1 July 2009. The Dispute Tribunal has issued over 200 judgments to date. By the end of this week, the United Nations Appeals Tribunal will have already convened two sessions this year and reviewed over 60 cases.

The reform of the United Nations internal system of administration of justice was achieved in a remarkably short period of time, demonstrating the capacity of Member States, management and staff to act swiftly and in a coordinated effort. The new system stands as a milestone in strengthening the commitment of the Organization to the rule of law, justice and accountability.

The concept of the rule of law in the United Nations embraces the most classic and fundamental principles of the international legal order and allows us to use these principles to face the most urgent and contemporary concerns of the international community.

I would like to thank you, Sir, for this initiative, which will no doubt assist the Security Council — and, through it, the international community at large — in discharging its special role of promoting and strengthening the rule of law in the maintenance of international peace and security.

The President (*spoke in Spanish*): I thank Ms. O'Brien, United Nations Legal Counsel, for her statement.

Before giving the floor to other speakers, I wish to remind all speakers to limit their statements to no more than five minutes, in order to enable the Council to carry out its work expeditiously. Delegations with lengthy statements are requested to circulate their texts

in writing and deliver a condensed version when speaking in the Chamber.

With the Council's permission, I will now make a statement in my national capacity.

Strengthening the rule of law in the work of the United Nations is a priority for Mexico. We thus welcome the fact that, four years after the Council's most recent open debate on this subject, which was organized by the Danish presidency, today we can come together to build on and discuss the progress achieved and the challenges we still face.

The promotion and strengthening of the rule of law in the maintenance of international peace and security represents two different, though closely interrelated, notions. On the one hand, it entails the idea of integrating international law to a greater degree in the daily work of the Security Council. On the other, it refers to the tools at the Council's disposal with which it can enhance compliance with international law in its various areas of competence. Both components are essential for the Council to fulfil its primary responsibilities.

Given today's ever-changing global challenges, the Council has learned to respond effectively, using the discretion it has under Article 39 of the Charter, in expanding, on a case-by-case basis, the very concept of a threat to peace. At the same time, however, it is very important to recall that, according to Article 24, paragraph 2, of the Charter, the Council is bound to discharge its duties in accordance with the purposes and principles of the United Nations. These include essential components of the rule of law, such as respect for the principles of justice and adherence to international law and human rights.

Four years ago, it was stressed that many controversies spring from disputes of a legal nature. If — as has often happened — such disputes give rise to situations that constitute a threat to or a breach of the peace or an act of aggression, we can logically suppose that both the determinations made by the Council pursuant to Article 39 and the actions that it decides to take should be grounded in and motivated by international law. In the past four years, there have certainly been important improvements in this regard, as demonstrated by resolutions on, for example, non-proliferation or the most recent one, on Iran. Nevertheless, much remains to be done.

In this context, I would like to recall the words of the then President of the International Court of Justice, Judge Rosalyn Higgins. At a 2006 debate on this subject, she reminded us that:

> "International law is, of course, the law that governs relations between States and between States and international organizations. It is the law of each and every one of us. In a world often divided by politics, it is our common language." (*S/PV.5474, p. 5*)

Now, in 2010, we can note with satisfaction the progress that has been achieved with respect to effective compliance with international law. Suffice it to mention the series of Security Council resolutions urging the parties to armed conflicts to comply with international humanitarian law. There has also been marked progress in the area of the protection of vulnerable groups, such as women and children. Indeed, the Council has become the collective guarantor of international humanitarian law, as provided for in the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts — Protocol I.

However, we recall that compliance with, and enforcing compliance with, international law are mutually reinforcing objectives. Those who promote respect for the law must strengthen it with their own actions. The primary responsibility conferred on the Security Council carries broad powers designed to guarantee its effectiveness, which is viable only to the extent that the Council and its Member States conduct themselves in accordance with those norms. That is not only an ethical imperative, but also the most important premise of the rule of law in its most fundamental concept. It has been reflected in a series of concrete measures, many of which have been articulated in previous debates. One useful guideline in that respect is, for example, the 2008 final report and recommendations emerging from the Austrian initiative on the Security Council and the rule of law.

The Security Council can play a key role in promoting a fundamental principle of the Organization. That is to achieve the settlement of disputes through peaceful means and in conformity with the principles of justice and international law. That dual responsibility — the obligation to settle disputes by peaceful means and the power of the Council to

promote that outcome — should be exercised more often in practice. In particular, in cases in which a dispute has its origins in divergent interpretations of the law, the Council can promote a legal solution by investigating a dispute or a situation pursuant to Article 34.

In recent years, we have been pleased to note a tendency to have more frequent recourse to the International Court of Justice, in particular through special arrangements between parties, but its potential has not been fully exploited and its advisory role could be put to greater use. For many years, Mexico has supported and advocated the idea that the General Assembly should authorize the Secretary-General to request advisory opinions on matters related to its functions in order to also strengthen the role of the Secretary-General, and thereby that of the Organization. However, we should bear in mind the fact that the Council also has the power to request advisory opinions on any legal matter, which would lead to strengthening international law in the its daily work in cases where that is required.

A separate issue is the role that the Council should play in the execution of a decision of the Court. There have been situations of non-compliance with the Court's rulings in the past, and these could continue to arise. In cases of non-compliance, paragraph 2 of Article 94 sets out the path to follow. However, we know and experience shows that States have rarely activated that mechanism. By contrast, we can encourage the Secretary-General's good offices to facilitate and ensure the implementation of a decision, as has already happened in some cases. Mexico reiterates its call on States that have not done so to draw up declarations of acceptance of the compulsory jurisdiction of the Court, and on those that have lodged reservations of a non-technical nature to consider withdrawing them.

While we have much to do to ensure the entry into force of the amendment that has just materialized at the Kampala Review Conference of the Rome Statute, which established the International Criminal Court, we already have a definition of the crime of aggression that allows us to fit the conduct being tried with the principles of international law. More important, the due relationship that should exist between the Security Council and the International Criminal Court has been preserved, with full respect for the Charter.

We welcome the fact that the Kampala Conference resolved the judicial mechanism that the International Criminal Court must activate in those cases in which the Council refrains from determining the existence of an act of aggression. That will allow the Court to exercise its jurisdiction and ensure that such serious acts as that of aggression do not remain unpunished.

Mediation is one of the most effective ways to resolve conflicts peacefully that can be resorted to once a conflict has started or in the post-conflict phase, with great peacebuilding potential. I wish to recall the presidential statement (S/PRST/2009/8) that the Council adopted in 2009, during Mexico's first presidency, which underscores the need to put mediation processes in place from the earliest stages of conflicts through the peacebuilding phase. Thus, Mexico believes that an essential task of the Council in establishing mandates for peacekeeping operations is to contribute to strengthening the rule of law in countries affected by conflicts or in the immediate aftermath when they are emerging from them. My delegation recognizes that the Council has increasingly used that idea in its decisions.

Reviewing the developments that the Council has seen since 2006 with regard to the rule of law, it is clear to us that there has also been progress in the area of sanctions. The sanctions regimes concerning Al-Qaida and the Taliban, in accordance with resolution 1267 (1999), have seen fundamental changes. Resolutions 1822 (2008) and 1904 (2009) are very important steps in that direction, and we therefore welcome the recent appointment of the Ombudsperson, which constitutes a change in the area of targeted sanctions. However, we believe that the right to an effective remedy is still pending. We are on the right path, but we still need to strengthen the delicate balance between effectiveness and legitimacy.

I conclude by recalling the brilliant jurist Hersch Lauterpacht, who reminded us that the principal function of international law is "the subjection of the totality of international relations to the rule of law". By promoting compliance with international law through its actions and decisions and by functioning within the framework of international law, the Security Council helps to fulfil its primary responsibility.

Ms. Čolaković (Bosnia and Herzegovina): At the outset, let me thank you, Mr. President, for convening

this meeting of the Security Council to discuss such a significant issue. Noting that our last debate on this issue took place in 2006 (see S/PV.5474) and that this very month we deliberated the progress and contributions of the ad hoc tribunals, as well as the achievements of and challenges to the Security Council counter-terrorism committees, we find that the timing of this debate is excellent. It will further reflect the Council's dedication and support to strengthening and promoting the rule of law. Bosnia and Herzegovina fully supports you in this initiative.

I would like to thank Deputy Secretary-General Migiro and the Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations, Patricia O'Brien, for their contribution to today's discussion, as we consider their comments to be of great value and significance.

Today's discussion focuses on three key issues: the promotion of the rule of law in conflict and post-conflict situations, international justice and the peaceful settlement of disputes, and the efficiency and credibility of sanctions regimes. Allow me to address each of these issues.

Promoting justice and the rule of law means enabling a fragile post-conflict society to avoid further damage from the conflict and to reconstruct itself and build sustainable peace. As Kofi Annan stated in 2004:

> "[W]e cannot forget the political context. Peace and stability can prevail only if the causes of conflict are addressed in a legitimate and fair manner — causes such as ethnic discrimination, gross disparities in the distribution of wealth and social services, abuse of power, and the denial of the right to property or citizenship." (*S/PV.5052, p. 3*)

Peacebuilding activities in a post-conflict society must be integrated, coordinated and based on a comprehensive approach to the establishment of good governance, the rule of law and promotion of human rights, institution-building, security sector reform, economic reconstruction and development. The right to return and the reintegration of refugees and internally displaced persons should be an integral part of peacebuilding strategies.

Particular attention should be paid to the full integration of the rule of law component into the strategic and operational planning of peace operations. We believe that the policy framework of United Nations activities in the area of the rule of law should be based on careful consideration of the country's needs and capacities, taking into account the social, cultural and justice system specificities of the host country and complying with international norms and standards.

Transitional justice and restoring the capacities and legitimacy of national institutions should continue to be at the very heart of the United Nations rule of law action aiming to establish lasting peace in post-conflict countries. Coming to terms with a legacy of gross violations of human rights and international humanitarian law and ensuring accountability are of crucial importance for stabilization, reconciliation and overall reinforcement of the peace process.

Strengthening the rule of law must be accompanied by efforts to ensure sufficient capacity and bring to justice the perpetrators of the most serious crimes. We firmly believe that addressing impunity is of the utmost importance. Therefore, the establishment and support of independent national judicial institutions that will be given the task of dealing with the domestic processing of gross human rights violations is of vital significance for addressing the legacy of the past. Also, in order to ensure the effectiveness of these institutions, other segments of the judiciary system — such as humane prison services, victim protection and reparations measures, juvenile justice systems or institutions in charge of civil claims — should be simultaneously developed.

Bosnia and Herzegovina considers the establishment of the Office of Rule of Law and Security Institutions within the Department of Peacekeeping Operations to be a positive step towards assuring effective coordination in providing comprehensive United Nations rule of law engagement during conflict and post-conflict recovery. We look forward to working together in further strengthening the work of the Office.

It is crucial to emphasize the central role of the United Nation in strengthening international justice and the importance it gives to promoting the peaceful settlement of disputes. We recall that one of the main purposes of this Organization, which is firmly embedded in its main document, is to establish conditions under which justice and respect for the obligations arising from treaties and other sources of

international law can be maintained. As stated in the Secretary-General's report of 2006 (S/2006/980), the Charter of the United Nations, together with the four pillars of the modern international legal system — international human rights law, international humanitarian law, international criminal law and international refugee law — and the wealth of the United Nations human rights, crime prevention and criminal justice standards set out a normative foundation and provides the means for all United Nations activities in support of justice and the rule of law.

Following on from this, I should like to touch upon the judicial institution that, as a principal organ of the United Nations and as set out in Chapter XIV of the Charter, has a fundamental role in determining the law, establishing facts and defining legal situations. The judgments and the growing number of advisory opinions of the International Court of Justice have made a valuable contribution to the cause of peace and the building of an international order based on law through the unified interpretation and clarification of the key points of international law.

Bearing in mind the fundamental principle of the international legal system that States settle their differences through peaceful means, we can only agree with the Outcome Document of the 2005 World Summit (General Assembly resolution 60/1) and recognize once again the important role of the Court in those peaceful settlements.

This also prompts us to underline the very strong connection and overlapping roles that the Council and the Court have in those situations. As the majority of disputes are perceived to be politically charged and diplomatically sensitive, many of them are by their nature concerned with supposed legal rights, in which cases Chapter VI of the Charter refers to the Court as the principal organ for their settlement. Since the enforcement of the Court's judgments lies ultimately with the Security Council, we are of the opinion that the Council, through its own actions, should give stronger emphasis and exploit this body more as one of the central tools in maintaining peace and security.

Finally in this regard, it is of great importance to underline that States today have many different means of settling their disputes, through a vast range of highly specialized forums and tribunals. We believe that all efforts towards peaceful resolution further promote the culture of dialogue and contribute to respect for the principles of international law. We therefore strongly encourage the further strengthening of existing international dispute settlement mechanisms and the use of alternative mechanisms and informal systems for peaceful dispute resolution.

As I stated at the outset, this month the Council also deliberated upon several other topics that, in their nature, represent essential aspects of promoting and strengthening the rule of law and international justice. It once again emphasized the significant contribution of the ad hoc tribunals to international criminal law, as they have brought and continue to bring justice to countries deeply wounded by mass atrocities and serious violations of international humanitarian law. Their role in fighting impunity and restoring peace and the rule of law is indisputable, and their legacy has been honoured with the creation of the International Criminal Court (ICC).

We hope that this Court will draw its strength not only from the vast experience of the ad hoc tribunals, but also from the experience of the mixed tribunals and truth and reconciliation commissions, as they proved on numerous occasions to be a valuable tool in the quest for justice.

In that context, the Council should consider measures to further support and strengthen the ICC's important role in the international judicial system. We urge all those States which have not yet done so to consider becoming party to the Rome Statute, but we also take this opportunity to remind them of their obligations under Article 103 of the Charter.

As many rightly pointed out during the debate in 2006 (5474th meeting), it is of the utmost importance that sanctions are adopted in accordance with the provisions of the Charter and that they have a high degree of legitimacy. At that time, the Council was urged to improve the efficiency and credibility of sanctions regimes. Today, we can rightly say that the Council has made a significant achievement in that regard: resolutions 1822 (2008) and 1904 (2009) have contributed further to the credibility of the Al-Qaida and Taliban sanctions regime. They targeted the key issues of concern for the Council in 2006 and, what is of even greater importance, set up an institution to address the issue of listing and delisting in an efficient and transparent way.

By establishing the institution of the Ombudsperson, this Council took a step further in strengthening the work of the sanctions regime, underlining its firm commitment to and respect for due process guarantees. Bosnia and Herzegovina welcomes the appointment of Judge Kimberly Prost to that position and firmly believes that her work within the framework of the sanctions committee will further compliment our commitment to the rule of law.

It is important to emphasize that, besides the establishment of the Ombudsperson, the Committee continues to tirelessly address the requirements set out in resolution 1822 (2008), always bearing in mind the importance of fair and transparent procedures when deliberating on the facts and evidence provided.

As a result, and drawing from the example of the Al Qaida and Taliban sanctions regime, we support other sanctions regimes in their practice of periodically reviewing and evaluating targeted sanctions. All the efforts they invest in further improving their procedures and their careful consideration and deliberation in this sensitive matter firmly underline and demonstrate the credibility of such measures.

Finally, I would like to reiterate the importance that Bosnia and Herzegovina attaches to justice and the rule of law in rebuilding post-conflict societies, as parts of a comprehensive approach to peacebuilding strategies aimed at achieving reconciliation, stability and lasting, irreversible peace.

Mr. Rugunda (Uganda): I wish to thank you, Mr. President, for organizing this important debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security. I also wish to thank the Deputy Secretary-General, Ms. Asha-Rose Migiro, and the Under-Secretary-General, Ms. Patricia O'Brien, for their statements.

The Preamble to the Charter of the United Nations expresses the determination of the peoples of the United Nations to establish conditions under which justice and respect for obligations arising from treaties and other sources of international law can be maintained. It envisages an international community grounded in law. Justice and law are therefore fundamental conditions for international peace and security. The international community must rekindle its commitment to fundamental human rights and to the dignity and worth of the human person.

It is often said that there can be no peace without justice. Justice and peace are complementary variables, neither of which can last or even exist without the other. Durable peace must be built on social, economic and political foundations that serve the needs of the people. We therefore welcome the continuing efforts of the Security Council to address the critical issue of early consideration of peacebuilding activities, right from the peacemaking and peacekeeping stages. In that regard, support for building the capacity of institutions for justice and the rule of law is critical if justice is to be meaningfully delivered at national levels.

Promotion of justice and the rule of law is critical, especially in fragile post-conflict situations in order to avoid impunity and the danger of relapse into further conflict. It is essential to insure national ownership and support of the people for programmes for justice and the rule of law.

In intractable conflict situations it would be unrealistic to expect effective delivery of justice and the rule of law where there is no functioning police, judicial institutions or custodial facilities. Therefore a holistic approach is needed to situations leading to or arising from conflict. The international community should contribute to comprehensive and holistic solutions, rather than to half measures that ultimately would not lead to the results envisaged.

Uganda supports mechanisms for dispute prevention and settlement, which include international as well as regional courts and tribunals. We are convinced that such mechanisms offer States the options for settling disputes peacefully.

The promotion of the rule of law is crucial in the maintenance of international peace and security. As a State party to the Rome Statute, Uganda is committed to the role of the International Criminal Court (ICC) in ending impunity for the perpetrators of the most heinous crimes of concern to the international community. Our commitment is further evidenced in our hosting in Kampala of the recently concluded Review Conference of the Rome Statue, which resulted in historic adoption of a resolution (resolution RC/Res.6) on the crime of aggression as a crime punishable by the International Criminal Court.

Uganda has institutionalized the rule of law by promulgating the necessary legislation domesticating the Rome Statue and establishing equally appropriate institutions to dispense justice. The War Crimes

Division of the High Court of Uganda is thus complementary to the ICC in the pursuit of justice for the most serious crimes of concern to the international community.

My delegation is not oblivious to the challenges arising from situations of armed conflict and the fight against terrorism. Nevertheless, it is important to ensure that human rights law and international humanitarian law are observed. All parties to armed conflict must respect international law applicable to the rights and protection of women and children and other vulnerable persons.

Finally, we thank the Mexican delegation for the draft presidential statement, which Uganda supports.

Mrs. Ogwu (Nigeria): I wish to thank you, Mr. President, for convening this debate on the important subject of the promotion of the rule of law as a complement to the maintenance of international peace and security. I also wish to thank Deputy Secretary-General Asha-Rose Migiro for her unrelenting commitment to the cause of the rule of law, and Under-Secretary-General Patricia O'Brien for her very insightful exposition on the subject under review.

This debate proceeds from the premise that justice and peace are mutually reinforcing ends, essential for a healthy society. The demonstrable truth of this assertion impels, in our view, a thorough examination of how best to promote and strengthen the rule of law as part of the United Nations commitment to maintain international peace and security. The examination must take into account the need for a common language and understanding of the concept of justice in the United Nations and at the international level.

Without the critical underpinnings of legislative and judicial infrastructure in any society, and in the absence of broad acceptance of legal norms, economic and social development will inevitably be retarded, as legal rights cannot be effectively claimed. The vulnerable are not protected from violations of criminal and humanitarian law and, in such circumstances, there is a pressing need for justice to be done and, indeed, to be seen to be done. Only then can confidence in the organs of society and in Government be restored.

The centrality of the rule of law cannot therefore be overemphasized, particularly with regard to transitional and fragile States. It is gratifying that the consideration of the issue of the rule of law is by no means new to the Council's agenda. Apart from the debates of 2004 and 2006, the rule of law has featured in many Council resolutions in the context of children and armed conflict — such as in resolutions 1325 (2000), 1612 (2005), 1674 (2006) and 1820 (2008). Prominence was also given to the subject with the establishment of the Rule of Law Coordination and Resource Group, in 2007. Since then, United Nations actors have benefited from an excellent resource through which efforts at reform are pooled and best practices sifted.

We have been challenged by the concept paper before us today (*see S/2010/322*) to identify ways of rooting activities deeper within the framework of international law and to encourage adherence to the rule of law and international law within the domestic sphere. All too often in the immediate aftermath of conflict, the architecture of order and justice becomes fragmented as a result of violence, meaning there are few mechanisms for bringing violations of criminal or humanitarian law to light. This, in turn, leads to a culture of impunity that is readily exploited by armed groups. In such circumstances, there is a pressing need for justice to be done, or to be seen to be done. Only then can confidence in the organs of society and in Government be restored.

We note with satisfaction that rule of law values are beginning to find their way into peacekeeping operations led by the United Nations and regional organizations like the African Union. For example, in the Sudan, the African Union-United Nations Hybrid Operation in Darfur is mandated to assist in promoting the rule of law through institution-building and strengthening local capacities to combat impunity.

The Council has also mandated the United Nations Organization Mission in the Democratic Republic of the Congo to assist with the investigation of human rights violations in that country, with a view to ending impunity and implementing a transitional justice strategy. Such best-practice models should continue to be replicated with due regard to the particular historical, political and institutional backdrop. Ideally, such initiatives should also receive early programmatic funding in peacekeeping mission budgets for that purpose.

We would also encourage the use of the integrated mission planning process advocated under

the capstone doctrine to ensure that, as far as possible, the multiple arms of the Organization act in concert to support a return to lawfulness, accountability and justice, as part of peacebuilding processes. In that way, the United Nations may stimulate an approach that integrates security, human rights, development and rule of law activities into all strategies for peacebuilding.

In the context of conflict situations, we would like to underscore the need for close collaboration among the Security Council, the General Assembly and the Economic and Social Council in the task of facilitating the restoration and consolidation of the rule of law in conflict and post-conflict societies. It is essential that the United Nations develops a strategy that allows peacekeepers to undertake, prioritize and sequence peacebuilding tasks from an early stage. The strategy should focus on the police, the rule of law, disarmament, demobilization, reintegration, security sector reform and quick-impact projects.

The role of the Peacebuilding Commission and civil society entities in post-conflict reconstruction cannot be overstated. Regional organizations can also contribute positively to global efforts to consolidate the rule of law.

We must also stress the need to craft initiatives in partnership with legitimate national and local actors to foster long-term local ownership of the processes and institutions administering justice. The primary role of the United Nations should focus on assistance, and must not seek to transplant judicial systems. We believe that reform efforts that incorporate public participation in their design would enjoy more credibility and more legitimacy vis-à-vis the ultimate beneficiaries. Clear anti-corruption strategies from the United Nations might also ensure a culture of integrity within judicial systems.

Strategies such as these would strengthen transitional justice processes where the ultimate objective is to reconcile as well as to punish. We would welcome a report from the Secretariat that covers more recent case studies to assess how far the United Nations system has achieved an integrated approach to rule of law activity in societies transitioning from conflict. The recommendations therein would serve as milestones against which to measure progress.

In the area of inter-State disputes, Nigeria supports the use of the International Court of Justice (ICJ) as an effective and authoritative arbitrator of international disputes. Indeed, in the context of Nigeria's boundary dispute with Cameroon concerning the Bakassi peninsula, the ICJ mechanism proved itself a very crucial part of the United Nations pacific dispute settlement armoury under Chapter VI of the Charter.

With respect to ad hoc tribunals, while we recognize their value in ending impunity and bringing violators to justice in the aftermath of violent confrontation, resource constraints can limit their effectiveness. We are now witnessing the winding down of the mandate of the International Criminal Tribunal for Rwanda. We hope that all the necessary support will be given by the United Nations to the relevant domestic justice systems to ensure that they are equipped to adequately take on the mantle of punishing crimes against humanity and other conflict-related violations of international law.

Nigeria has previously stated, and reiterates today, that the International Criminal Court is an invaluable tool for ensuring the development of international law. We hope that its decisions will help us to keep pace with the changing nature of international relations. It would be to the benefit of the entire community of nations if those Member States yet to do so would accede to the Rome Statute.

We are encouraged by the Council's unanimous decision to appoint an ombudsman to analyse the de-listing of terror suspects from the consolidated list. Such procedural steps shore up due process within appropriately targeted sanctions regimes and, as such, should be considered in relation to other sanctions regimes.

In conclusion, it is incumbent upon the Council to pay due regard to the value of the rule of law as an end as well as a means. Unless the standards of lawfulness are maintained, there is a high risk that the call for adherence among nations and non-State actors to the rule of law could possibly be undermined. The Council should engender adherence to international legal standards through uniform implementation and consistent enforcement instruments and regimes. Our quest for justice and the rule of law should not be limited to the domestic sphere. Those same standards should also apply at the international level. It is our collective responsibility to manifest a just international order, and thus empower all peoples to live in peace and harmony.

Ms. Le Fraper du Hellen (France) (*spoke in French*): I thank you, Sir, for having organized this open debate on strengthening the rule of law in the maintenance of international peace and security.

We would also like to convey our gratitude to Ms. Migiro, Deputy Secretary-General, and Ms. O'Brien, Under-Secretary-General for Legal Affairs, for their contributions. Ms. O'Brien underscored the scope of the activities of the Organization in strengthening the rule of law. She mentioned in particular the administrative tribunals, which we sometimes forget.

I will address three issues: the strengthening of the rule of law in conflict and post-conflict situations, international justice and the peaceful settlement of disputes, and the efficiency of the sanctions regime. In these three fields, without being too optimistic, the distance covered in the four years since the adoption of the 2006 presidential statement (S/PRST/2006/28) is substantial.

On the strengthening of the rule of law, the promotion of justice and the rule of law enables a weakened country emerging from conflict to rebuild and move towards a lasting peace. Notable progress has been achieved since our last debate, as I just mentioned. The Permanent Representative of Nigeria spoke of the role of the Peacebuilding Commission and the fact that provisions regarding the promotion of the rule of law are now systematically included in the specific mandates of peacekeeping and peacebuilding operations, such as the United Nations Organization Mission in the Democratic Republic of the Congo and the African Union-United Nations Hybrid Operation in Darfur.

The Rule of Law Assistance Unit approved in the 2005 World Summit Outcome (resolution 60/1) and which is backed by the Office of Rule of Law and Security Institutions is now operational, as was underscored by Ms. Migiro. It devotes special attention to the specific needs of each country and enables us to ensure better coordination of capacities on the ground. This is above all a matter of identifying real needs. At recent meetings in which we participated, we have noted that aid has often focused on fields such as training and the building of infrastructure to the detriment of more complex programmes that are just as essential aimed at ensuring, for example, in the judicial field, the independence and protection of magistrates whom we are training. France welcomes the role played by Ms. Migiro in this effort to identify priorities. We take note of her proposals to further strengthen the coherence of the system.

Turning now to international justice and the peaceful settlement of disputes, France also takes note of progress achieved. The peaceful settlement of disputes is one of the pillars of the Charter of the United Nations, and the International Court of Justice, as the main judicial body of the United Nations, plays a central role in the maintenance of peace and security. The number of inter-State disputes and requests for opinions by bodies of the United Nations brought before the Court clearly demonstrate its vitality. To rule on matters of law is a vital responsibility that structures the international order; however, as other speakers have said before me, it is just as important to apply this law, and it is to that issue that we must devote our attention in years to come.

The international community has acquired new tools to assist it in its work in preventing and settling disputes. As underscored in the concept note submitted to us by the Mexican presidency (S/2010/322), the fight against the impunity of the perpetrators of genocide, crimes against humanity and war crimes is an essential aspect of our mission to promote peace and security. To fight against impunity, the international community and the Council can now count on the International Criminal Court, the first standing tribunal mandated to prosecute the perpetrators of the worst crimes when national authorities do not have the will or the capacity to bring such perpetrators to justice.

France has frequently reiterated that we unreservedly support the Prosecutor of the International Criminal Court and his work, in particular in his prosecutions of crimes committed in Darfur, a situation referred to him by the Security Council. The Security Council deemed that the intervention of an independent, impartial tribunal would contribute to prosecuting crimes in the Sudan. The Court has carried out its work. It is now incumbent upon the Security Council to ensure that its own decisions are respected. At stake is respect for the Charter and for the referring Rome Statute. It is also important that all representatives of the Secretary-General should, as Mr. Ban Ki-moon asked them to do, respect and support the international criminal justice actors within the framework of their missions on the ground, especially when the Court works within the framework

of a Security Council resolution adopted on the basis of Chapter VII of the Charter.

As to sanctions and their efficiency, the Council has consistently improved this essential political instrument by specifically targeting individuals and entities that breach embargoes, impede peace processes or are linked to Al-Qaida, as well as individuals responsible for hate crimes or incitement of hatred.

The efficiency of this Council hinges in part on its ability to ensure that States vigorously implement its decisions. That is especially important in the field of the fight against terrorism. We have noted a loss of trust by a number of States in the mechanisms for de-listing individuals by the sanctions committees. In order to ensure that the United Nations targeted sanctions system remain a transparent tool to effectively fight against threats to peace, France proposed in 2006 the creation of a focal point that would take requests for de-listing and exemptions directly from individuals on the list. A shared focal point was set up. Four years later, pursuant to resolution 1904 (2009), we have moved even further through the appointment of an Ombudsman for the Committee established pursuant to resolution 1267 (1999), responsible for considering de-listing requests made to the Committee and to put Member States' questions to individuals requesting de-listing. France welcomes the appointment of Judge Kimberly Prost to that post. These developments enable us to better take into account respect for human rights in the fight against terrorism.

Exercising the responsibility to protect, combating impunity and strengthening the effectiveness of sanctions are the missions that France would like to see the Security Council work on more diligently. That is the way we interpret the draft presidential statement that has been circulated by the delegation Mexico, which we support.

Mrs. Viotti (Brazil) (*spoke in Spanish*): I am pleased to welcome you to the Council, Mr. President. It is a great pleasure to see you presiding over our meeting today, and I take this opportunity to congratulate the Mexican delegation on its initiative of organizing this open debate on a topic of great importance in the daily work of the Security.

(*spoke in English*)

I would like to thank Deputy Secretary-General Asha-Rose Migiro for her statement and for her leadership on this issue. I also thank Under-Secretary-General Patricia O'Brien for her very interesting remarks, which reminded us of the many important dimensions of the rule of law and the implications of the increasing trend towards the international rule of law.

An international system based on legal principles and norms is simply indispensable for ensuring lasting peace and security. Outside the boundaries of international law, there can be no justice or friendly relations amongst States, much less cooperation for the good of the billions of individuals we represent.

Today, I will address the three main topics suggested in the concept paper prepared by your delegation, Sir, for this debate (S/2010/322, annex), namely, the promotion of the rule of law in conflict and post-conflict situations, international justice and the peaceful settlement of disputes, and the efficiency and credibility of sanctions regimes.

The Security Council, as the organ of the United Nations entrusted with primary responsibility for the maintenance of international peace and security, is expected to help ensure the effective implementation of international law. That means, first and foremost, ensuring compliance with its own resolutions. It also implies upholding international law applicable to conflict situations — an obligation that the Council should strive to consistently fulfil on all issues on the agenda.

Our challenge is therefore to reconcile the political nature of this body with the imperative to strengthen the rule of law. In fact, there is no opposition between the two goals: in the long term, the observance of international law serves the interests of all of us.

The need to restore and sustain the rule of law is even more evident in post-conflict situations. In war-torn societies, fragile national institutions usually hamper consolidation of the rule of law. It is important that the international community be able to assist national efforts to re-establish State institutions. In the context of such efforts, my delegation greatly values the measures that have been taken to include the rule-of-law perspective in United Nations activities, including creation of the Rule of Law Coordination and Resource Group and the Rule of Law Unit.

Numerous bodies have worked towards the settlement of disputes, thus avoiding the occurrence of possible deadly conflicts. Among them, the International Court of Justice has a particular importance, as it adjudicates very sensitive cases, thus significantly contributing to the maintenance of international peace and security.

The International Criminal Court also deserves special mention. It has become a powerful tool against impunity and thus a means of prevention. The deterrent effect is a central part of the work of the Court and probably its most important contribution to the maintenance of international peace and security. If leaders and persons vested with authority around the world understand that they are not above international law, they will probably use power in a manner less likely to cause instability and conflict and therefore violence.

Furthermore, as the Court's jurisdiction is complementary to national criminal jurisdictions, States still have the primary responsibility of bringing to justice those responsible for the most serious crimes. This approach has led many States to enact appropriate legislation concerning those crimes, which in turn contributes significantly to the maintenance of international peace and security.

Another positive note on the Court is the important outcome of the first Review Conference of the Rome Statute, in Kampala. The Conference highlighted the strong commitment of the international community to the Court and resulted in an historic agreement on the definition of the crime of aggression and the trigger mechanisms for exercise of the Court's jurisdiction over one of the most serious crimes. It is our expectation that in 2017, States parties will agree to activate the agreed mechanisms.

Sanctions may play a role in efforts to maintain international peace and security. But they should be used sparingly and wisely and never to the detriment of negotiated solutions to differences. As highlighted in the document annexed to General Assembly resolution 64/115, they should be carefully targeted in support of clear and legitimate objectives and should be implemented in ways that balance effectiveness to achieve the desired results against possible adverse consequences, including socio-economic and humanitarian.

It is worth recalling that the purpose of sanctions should be to modify the behaviour of the targeted State, party, individual or entity threatening international peace and security. The purpose must never be an indirect or undeclared means to cause regime change or punish or otherwise exact retribution. The further we depart from the original concepts, the less legitimacy and effectiveness sanctions will have.

In devising and implementing sanctions regimes, the Security Council should avoid adverse effects for individuals and entities not targeted or for third States. When sanctions include measures against certain individuals or entities, listing and de-listing procedures need to be clear and fair and must observe the due process of law. There have recently been important improvements in this regard, especially in the 1267 sanctions regime, related to Al-Qaida and the Taliban. Further efforts will have to be made to ensure the Security Council continues to fully respect fundamental freedoms and human rights.

We believe the strict observance of international law is closely linked to long-lasting peace and security. Efforts made in that regard merit our unwavering support. We hope they will be sustained and expanded throughout the United Nations system.

Mr. Mayr-Harting (Austria): At the outset, let me congratulate the Mexican presidency for organizing today's open debate on the subject, "The promotion and strengthening of the rule of law in the maintenance of international peace and security" and for preparing the concept note (S/2010/322, annex). Let me add that in view of your outstanding personal experience in this matter, Mr. President, it is a particular pleasure to have you presiding over the Council today. Austria warmly welcomes the initiative. I would also like to thank Deputy Secretary-General Migiro and Under-Secretary-General O'Brien for their statements and their presence here today.

Austria reaffirms its firm commitment to an international order based on international law, including human rights law, and the rule of law with the United Nations at its core. We believe that international law and the rule of law are the foundations of the international system. Clear and foreseeable rules, respect for and adherence to these rules and an effective multilateral system to prevent or sanction violations are preconditions for lasting international peace and security. In our view, it is

imperative to strengthen the rule of law in all its dimensions — the national, international and institutional levels.

For many years Austria has particularly focused on the role of the Security Council in strengthening a rules-based international system. You, Mr. President, have already kindly referred to our initiative launched in 2004 on the rule of law and the Security Council. We started this with the New York University School of Law and launched a series of panel discussions on the topic. Together with you, Sir, in your then-capacity as Permanent Representative of Mexico, and with Liechtenstein and other like-minded members of the Group of Friends of the Rule of Law, prepared a final report on this subject. It was presented in New York in April 2008 and published as a Security Council document (S/2008/270, annex). The report contains 17 specific recommendations on how the Security Council could strengthen the rule of law in its various fields of activity. During our membership on the Council we have consistently worked with other delegations to implement and mainstream these recommendations in the Council's daily business.

In this context, Austria also commends the efforts of the Security Council Informal Working Group on Documentation and Other Procedural Questions to strengthen the transparency of the Council's working methods by reviewing and updating the relevant presidential note (S/2006/507), thereby enhancing the rule of law in the everyday work of the Council.

Since the last open debate on the rule of law, in June 2006 (5474th meeting), significant progress has been made with the establishment of the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit. We are grateful for the personal involvement of the Deputy Secretary-General in this important matter. We strongly support the Group and the Unit in their efforts to ensure a coordinated and coherent response. We also support the specific proposals made by the Deputy Secretary-General on the subject.

Among the topics raised in the concept paper, let me first address the importance of the rule of law in conflict and post-conflict situations. In resolution 1894 (2009), the Security Council reaffirmed that the deliberate targeting of civilians and the commission of systematic, flagrant and widespread violations of applicable international humanitarian and human rights law in situations of armed conflict may constitute threats to international peace and security and imply the adoption of appropriate measures by the Council. Respect for international humanitarian law by all parties to a conflict is essential for the protection of civilians and should be an important aspect of any comprehensive strategy for resolving conflict. We stress the special rights and protection of women and children under international law, which we urge all parties to conflict to respect.

The rule of law is the cornerstone of all peacebuilding efforts. We call on the Council to express its commitment to ensure that all United Nations efforts to restore peace and security themselves respect the rule of law. The promotion of the rule of law in post-conflict situations can only be achieved through an integrated and coordinated approach that encompasses all the actors involved. In that context, the Peacebuilding Commission has a vital role to play. We commend the important contributions made by international and regional organizations in this area, including the European Union and the International Development Law Organization.

Turning now to international justice and the peaceful settlement of disputes, Austria strongly supports the role of the International Court of Justice as the principal judicial organ of the United Nations. We call on all States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute. For its part, Austria accepted the compulsory jurisdiction of the Court four decades ago.

With regard to international efforts to end impunity for the most serious crimes of international concern, Austria stresses the important role of the International Criminal Court (ICC), ad hoc and mixed tribunals and specialized chambers of national tribunals. Austria strongly believes that the permanent International Criminal Court is one of the most effective tools for buttressing the rule of law and combating impunity. In that regard, we commend the stocktaking of international criminal justice undertaken by the first Review Conference of the ICC, held from 31 May to 11 June in Kampala at the invitation of the Government of Uganda. While the ad hoc Tribunals for the Former Yugoslavia and Rwanda are only temporary institutions, as Chair of the Security Council's Informal Working Group on International Tribunals, Austria is working to establish a mechanism to take over their

residual functions, and thus preserve justice and the rule of law.

We believe that the United Nations and the Security Council must continue to be at the forefront of the fight against impunity and to ensure that alleged violations are investigated and those responsible for crimes held accountable. Accountability must be ensured by taking measures at the national level, such as through domestic prosecutions, truth-seeking, providing reparations for victims and through institutional reform. Justice is essential to achieving lasting peace and reconciliation, as well as to avoiding the recurrence of violations in the future.

As Chair of the Al-Qaida/Taliban Sanctions Committee, Austria is also committed to enhancing the efficiency and credibility of sanctions regimes — and almost all the representatives who have spoken so far have brought up that subject today. Sanctions play an important role in promoting compliance with international law and fighting international terrorism. However, when they target individuals, sanctions also raise questions about procedural guarantees and due process. Austria welcomes the adoption of resolutions 1822 (2008) and 1904 (2009), which provide for substantial improvements in the listing and de-listing procedures of the Al-Qaida/Taliban sanctions regime. Like others, we warmly welcome the Secretary-General's recent appointment of Ms. Kimberly Prost, who is an outstanding lawyer, as the Ombudsperson. I would specifically like to assure Under-Secretary-General O'Brien, who made the point, that the Committee is looking forward to working with her very closely.

Finally, my delegation would like to express its strong support for the draft presidential statement that the Council will adopt today and for the request to the Secretary-General to prepare a follow-up to his 2004 report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616).

The President (*spoke in Spanish*): I thank the representative of Austria for the kind words addressed to the presidency.

Sir Mark Lyall Grant (United Kingdom): The United Kingdom welcomes this debate and is grateful to the Mexican presidency and to you, Minister Gómez Robledo, for your initiative. I would also like to extend our appreciation to the Deputy Secretary-General for her introductory remarks, which set out some of the challenges faced in this area, and to express our gratitude for the thoughtful intervention by Under-Secretary-General Patricia O'Brien, who is a fellow member of Middle Temple.

For the United Kingdom, the rule of law is at the heart of its foreign policy. Since the United Nations was founded, the importance of respect for the rule of law in the maintenance of international peace and security has been self-evident from the principles and provisions of the Charter. There is now widespread recognition that the rule of law is a principle that applies much more broadly across the spectrum of issues dealt with by the United Nations, and by the Security Council in particular. I want to set out a few examples, many of which are dealt with in the draft presidential statement that we will adopt today, which the United Kingdom fully supports.

The United Kingdom believes it is important for all States to settle their disputes by peaceful means. Judicial settlement remains a vital part of the mechanism for the peaceful settlement of disputes and for advancing the rule of law at the international level. The International Court of Justice stands at the apex of the international judicial machinery. Its contribution to the peaceful settlement of disputes and the advancement of international law is profound. While there are other roads to the Court, the option exists for Member States to accept the compulsory jurisdiction of the Court in accordance with Article 36, paragraph 2, of the Statute. The United Kingdom is the only permanent member of the Security Council to have accepted the Court's general jurisdiction in this way. We call on other Members of the United Nations that have not yet done so to consider taking a similar step.

The United Kingdom is a strong supporter of the International Criminal Court (ICC), and actively participated in all the discussions that took place at the recent Review Conference in Kampala. The ICC continues to play a key role in delivering international justice and combating impunity. The United Kingdom also strongly supports the various international criminal tribunals and courts. These bodies should receive the full support of the Security Council as they seek to carry out their mandates.

The United Kingdom remains committed to the Geneva Conventions of 1949 and their Additional Protocols. Last July we co-hosted, with the British Red Cross, an event to celebrate the sixtieth anniversary of

the Conventions. That provided us with an opportunity to focus on the excellent work carried out by the International Committee of the Red Cross and the British Red Cross in the field of international humanitarian law. We need to focus on the challenges ahead and respond to the changing nature of warfare.

The United Kingdom has long been a champion of improving sanctions listing and de-listing procedures. As such, we strongly welcome reforms that build on the significant improvements that have been achieved in recent years. Such reforms are evidence that the Security Council has listened to, and acted upon, the concerns of the wider international community. By doing so, it has ensured that United Nations sanctions continue to be a vital tool in the fight against terrorists such as Al-Qaida and the Taliban.

The rule of law is not only a part of relations between Member States. As the remarks made this morning by the Deputy Secretary-General succinctly demonstrate, there are major challenges and constraints facing the delivery of rule of law assistance in conflict and peacebuilding situations. Improving security and justice and committing to a functioning rule of law is an essential component of peacebuilding in post-conflict States. As the Permanent Representative of Uganda said earlier, justice is not an alternative to peace; the two are complementary. Re-establishing and reinforcing the rule of law and associated institutions are vital steps in helping to create and sustain the necessary conditions under which activities such as effective peacebuilding can take place.

Finally, the implementation of the recommendations in the Secretary-General's 2009 report on peacebuilding in the immediate aftermath of conflict (S/2009/304) is key to ensuring a more effective and coherent international approach to peacebuilding. We need to see tangible improvements on the ground in sectors such as the rule of law.

We welcome therefore the call in the draft presidential statement for a Secretary-General's report to the Council on the rule of law and transitional justice in conflict and post-conflict settings. With this in mind, we urge the Secretary-General to focus that report on a review of the delivery of rule of law assistance in the countries on the Council's agenda.

Mr. Salam (Lebanon) (*spoke in Arabic*): At the outset, we would like to thank Mexico for choosing the topic under discussion today. The rule of law at the international level is a cornerstone of the maintenance of international peace and security, and the Security Council must retain it as a method of work and a goal in view at all times.

I would like to thank Ms. Migiro for her presence here today and her important remarks, and Ms. O'Brien for her comprehensive statement.

International law is the accumulation of written and unwritten rules that regulate international relations. Notwithstanding the differences between States in terms of population, geography, national culture, identity, religion and political, economic and social considerations, we are all united by the obligation to abide by the provisions of international law. That is the common element that unites us all. We have all contributed to establishing this system on the basis of our belief in the importance of creating an international framework that guarantees the sovereignty, independence and security of States, provides for stability in relations on the basis of justice and equality, and guarantees respect for basic human rights.

This law has been expanded and developed over previous decades so that it now includes, in addition to international legal norms and the United Nations Charter, international humanitarian law, the law of treaties, international trade law, the law of the seas, the outer space law, various counter-terrorism agreements, and numerous conventions on economic, social, cultural, civil and political human rights.

The core objective of the establishment of the United Nations at the end of the Second World War was to maintain international peace and security, as stated in Article 1 of the Charter, and to deter and punish any State that chooses the military option except in cases involving collective security and legitimate defence.

For this purpose, Article 33 of the Charter lists the peaceful means for conflict prevention and resolution. These options must remain the alternatives to war and violence. In that regard, we commend the role of the Secretary-General, the International Court of Justice, the International Tribunal for the Law of the Sea, the Permanent Court of Arbitration and other international, regional and local mechanisms that also contribute to the peaceful resolution of conflicts.

However, we continue to witness a selective application of the principle of preventing the use of

force. This reality threatens to render that concept meaningless. It also constitutes a blatant violation of the rule of law. Unfortunately, there are many examples of this, the most serious of which are such Israeli practices as the annexation of territory, the building of settlements in the occupied Palestinian West Bank and in the occupied Syrian Golan, the various transgressions against holy sites, the identity of the land and its history, such as in Al-Quds Al-Sharif, the policy of collective punishment and siege practiced in Gaza, the various threats of war and destruction against Lebanon, and the daily violations of its sovereignty by land, sea and air.

This reality is extremely dangerous because it creates the public perception that the international community is incapable of preventing these practices, which violate the principles of the United Nations and of international law, specifically the sovereignty and territorial integrity of States, the right of peoples to self-determination, and the non-use of force. It also suggests that Israel is a State with no accountability and above international law and that the United Nations is an incompetent and incapable entity. This harms the Organization's image, reputation, efficiency and role in the service of peace.

Lebanon, like many other States, refuses to employ discretion and double standards. Lebanon believes that it is its right and indeed its duty to question why certain international resolutions are implemented while others are ignored. Why are sanctions enforced against some but not all States that do not comply with international resolutions? Does not Article 25 of the Charter oblige everyone to respect the resolutions of the Security Council? Where is the actual implementation of the principle of respect for contracts — pacta sunt servanda — when certain countries do not abide by the Charter? What is the value of legal opinions issued by the International Court of Justice when not all countries abide by them? For how long will war criminals and those who commit crimes against humanity be punished in some States and not in others?

Equality among States is one of the main principles of the United Nations and a pillar of the concept of the rule of law. The international scene today is vastly different from that of 1945. Accordingly, the credibility of the Security Council is being tested today because, although it calls for the spread of democracy and justice, there is no review of the structure of the Council itself and its practices aimed at making the Council more democratic in its representation and more fair in its methods of work.

Despite all this, Lebanon cannot help but welcome the role that the Security Council is currently playing in the protection of civilians in conflict and war situations, especially women and children, and in ensuring compliance with the rules of international humanitarian law. We hope that the Council will firmly abide by these rules, because they have now become binding for everyone.

Lebanon also welcomes the other significant steps taken by the Council, including the creation of international tribunals to prosecute those who commit the most heinous crimes and to contribute to ending impunity. This is an inseparable part of the implementation of the rule of law and the maintenance of international peace and security.

The Lebanese people therefore look forward to the activation and work of the Special Tribunal for Lebanon aimed at finding truth and delivering justice and equity to the victims, healing wounds and deterring criminals without resorting to the logic of vengeance or politicization.

Lebanon commends the role that the Security Council plays in post-conflict situations. This role involves establishing and building peace by achieving national reconciliation, strengthening national unity, enabling countries to move on and to leave the painful past behind, building national capacities and creating the legislative and institutional foundations to guarantee good governance, democracy and respect for human rights. These are the fundamentals of the rule of law at the national level.

Sanctions are a tool to be used for the maintenance of international peace and security in accordance with Chapter VII of the Charter. The Security Council, in abiding by the principles of justice, transparency and basic human rights in the work of its sanctions committees, will enhance the effectiveness of these committees and will not hinder them from achieving their objectives. The appointment of an Ombudsman to the Committee established pursuant to resolution 1267 (1999) and the consideration of humanitarian exceptions in sanctions are two very important steps. However, we need to do more because if we were to agree to combat terrorism

at the expense of respect for human rights law, terrorism would have won the fight.

In conclusion, Lebanon reiterates its conviction that the basis for maintaining international peace and security and for guaranteeing justice and equality among States and respect for basic human rights is the might of the law and not the law of might. International law is a social contract between States; we are all its legislators and we all must respect it.

Mr. Wang Min (China) (*spoke in Chinese*): The Chinese delegation would like to thank you, Mr. President, for coming to New York to preside over today's meeting. We would also like to thank Deputy Secretary-General Migiro and Under-Secretary-General O'Brien for their statements.

The rule of law is an important symbol of human civilization and social development, and strengthening the rule of law in international relations is conducive to maintaining world peace, promoting common progress and strengthening efforts to build a harmonious world. The Security Council's fulfillment of its primary responsibility to maintain international peace and security within the framework of international law is of great significance in strengthening international law and furthering the process of strengthening the rule of law in international relations.

In that connection, I would like to stress the following points. First, the Charter of the United Nations is the cornerstone of the international rule of law. The Charter and the basic principles of international law established by it are the basis of the existing international legal order and the foundation for building the international rule of law. At the 2005 World Summit, world leaders unanimously committed to stricter compliance with the United Nations Charter and international law. That solemn commitment must be translated into practical action. In international affairs, countries should abide by the basic principles of international law, such as sovereign equality, fulfilling obligations in good faith, the peaceful settlement of disputes and the non-use or threat of force. They should engage in building harmonious international relations, seek to prevent and reduce conflicts, and preserve world peace and security.

Secondly, in strengthening the rule of law in conflict and post-conflict situations, the many political, economic and social factors should be taken fully into account. Strengthening the rule of law in conflict and post-conflict countries is both a prerequisite for the transition from conflict to peace and a fundamental guarantee for building sustainable peace. Far from being merely a legal matter, strengthening the rule of law is closely related to various political, economic and social factors. Post-conflict reconstruction covers many elements and the task of building the rule of law should be integrated into and coordinated with the political process and economic and social reconstruction, and not separate from them, so that they can be mutually reinforcing. That is the only way to eliminate the root causes of conflicts.

Thirdly, when conflict and post-conflict countries are assisted in strengthening the internal rule of law, their sovereignty must be respected. Basically, strengthening the rule of law in such countries falls within the realm of internal affairs. While the international community can provide support and assistance in terms of finance, technology and capacity-building, it is necessary to respect the autonomy of recipient countries, take full account of local history, culture and legal systems, and avoid imposing anything from outside.

Fourthly, it is necessary to strike the right balance between maintaining peace and pursuing justice. Ensuring compliance with international humanitarian law is an important aspect of strengthening the international rule of law. We condemn all criminal acts that violate human rights and international humanitarian law and support the international community in pushing to resolve the issue of impunity in conflict regions and to punish serious international crimes, such as war crimes, genocide and crimes against humanity. In our view, the issue of impunity can be fully resolved only if tension is eased and political stability achieved in the relevant regions. Efforts to seek criminal justice should further rather than interrupt the relevant peace process, and foster rather than hamper national reconciliation and peacebuilding.

Lastly, the efficiency and credibility of United Nations sanctions should be enhanced. Over the past decade, the Security Council has increasingly resorted to sanctions as a means of deterrence or punishment. Despite the Council's efforts to improve sanctions procedures, the effects and negative impact of sanctions continue to be matters for widespread concern. China has always taken a cautious approach to the use of sanctions and advocated for strict criteria

and appropriate time frames for sanctions so as to avoid, as far as possible, their negative impact on people's livelihoods and economic and social development.

China supports strengthening United Nations sanctions in accordance with the following principles: undertaking broad consultations on the basis of Security Council resolutions and moving forward cautiously; emphasizing facts and evidence and avoiding double standards; and taking fully into account the practical situation of the countries concerned and the nature of the relevant sanctions committees, as well as enhanced efficiency.

Mr. Churkin (Russian Federation) (*spoke in Russian*): Today's debate clearly shows that interest in the issue of the rule of law has not diminished. Russia is resolutely committed to an international order based on the rule of law. Respect for international norms is one of the main prerequisites for a fair, stable and predictable system of international relations.

Given its primary responsibility for the maintenance of international peace and security pursuant to the Charter of the United Nations, the Security Council has a particular role in strengthening the standing of international law. In that respect, the Council has accumulated tremendous experience. Suffice it to recall its role in restoring the rule of law in peacekeeping operations, governing territories in times of crisis, establishing ad hoc international criminal courts and joint tribunals, referring issues to the International Criminal Court (ICC), and protecting civilians from genocide, war crimes, ethnic cleansing and crimes against humanity.

The Council's activity in the area of the rule of law has had a clear impact on the establishment and interpretation of international legal norms. Its decisions have important legal consequences. I refer not only to the Council's setting of legal obligations in individual cases, but also to the emergence of general norms and standards as a result of its work. That is true, for example, for the Council's decisions in the areas of counter-terrorism and the non-proliferation of weapons of mass destruction.

The Council's promotion of the rule of law is a holistic and organic process. On the one hand, in addressing conflict and crisis situations, the Council dictates respect for the law; on the other, in adhering to standards of international law in its activity, it sets an example by complying with the law.

We are grateful to you, Mr. President, for again drawing our attention to the importance of ensuring the primacy of the rule of law in conflict and post-conflict societies. Many conclusions contained in the Secretary-General's 2004 report on this topic (S/2004/616) are still relevant. We believe it important to pursue efforts to resuscitate those valuable ideas and to monitor progress on those matters. The mandates of United Nations peacekeeping operations need to be further improved. It is necessary to better understand the causes of conflicts and to incorporate international standards of justice, taking due account of local conditions and customs. Resources are needed to support national dialogue on legal reform. It is important to seek a prudent relationship between legal bodies and truth and reconciliation commissions.

We are not the first to say that a robust peace is impossible without punishing the guilty, just as justice is not possible without robust peace. We are convinced that the actions of international structures should complement and stimulate national efforts, rather than replace them.

Russia has consistently supported the fight against impunity. However, it believes that matters of justice cannot be an end in themselves. In many situations, excessive and untimely action in that regard becomes an obstacle to peace, complicating the reaching or implementation of peace agreements.

We share your view, Mr. President, regarding the key role of the International Court of Justice in resolving disputes between States. That body sets the high standard for legal proceedings, which is the starting point for ensuring the rule of law at the international level. We believe that the trust placed in its political neutrality in its adherence to the principles of international law makes it possible to encourage an increasing number of States to recognize the Court's jurisdiction and to lift reservations on the Court's jurisdiction over a broad range of international agreements, in particular in the areas of human rights and counter terrorism.

The great variety and broad range of cases on its docket speaks for itself. We very much hope that, in today's complex political reality, the Court will not lose its standing as the standard-bearer of international

justice. The Court is a unique organ that has the final say on the most ambiguous international legal issues.

The Russian Federation notes the importance of the ICC as the first genuine standing body of international criminal justice. We believe that the Court has found its place and has every chance of becoming an effective instrument in the fight against impunity. The universalization of the Rome Statute is a vitally important factor for the ICC. In that regard, we believe that a great deal will depend on the Court's level of professionalism and impartiality in discharging the lofty mission entrusted to it.

Sanctions are another key element of the international order. With skilful use, targeted application and careful analysis of negative side effects, sanctions can serve as an effective instrument to strengthen international peace and security and restore respect for the law. It is of fundamental importance that sanctions be imposed on a strictly legal basis — that is, in strict compliance with the Charter of the United Nations and with clear objectives and an understanding of the conditions for lifting or easing them.

Over the past two years, the Council has done much to uphold individual rights and freedoms during the application of targeted sanctions, first and foremost by significantly improving listing and de-listing procedures. We believe that those procedures should be implemented based on criteria that are clearly enshrined in the relevant Security Council resolutions. We also believe that there is a need at this stage to focus on the implementation of what has already been achieved, rather than on creating additional mechanisms that might have a negative impact on the effectiveness of coercive Council measures.

It should be noted that not only the Security Council but the General Assembly, too, have devoted attention to the task of enhancing the effectiveness of sanctions and their application in accordance with international law. In that connection, in 2009 the General Assembly adopted a Russian-sponsored document on criteria and conditions for imposing United Nations sanctions that contained leading work on this issue and was mindful of established practices in the Security Council.

The sovereign equality of States, the rejection of the use of force in violation of the Charter of the United Nations, the peaceful settlement of disputes and other fundamental principles of contemporary international law have been robustly enshrined as the undisputed and universally accepted canons for conduct on the international stage. That is one of the great achievements of civilization and serves as the guarantee of a peaceful and prosperous future.

Mr. Takasu (Japan): I should like to welcome you, Sir, as you preside over today's debate. I would also like to express my sincere appreciation to the delegation of Mexico for having taken up the very important issue of the rule of law. We are also grateful to the Deputy Secretary-General and to Ms. Patricia O'Brien, Legal Counsel of the United Nations, for their thoughtful statements.

The rule of law is one of the most important norms for ensuring the peaceful coexistence of human beings. It is a fundamental principle to which the United Nations must always adhere. It is especially important for the Security Council to honour the rule of law in discharging its responsibility for the maintenance of international peace and security.

We are able to concretely see the operation of the rule of law first in the peaceful settlement of disputes. The law serves both to prevent disputes and to provide means to resolve them when they occur. It is desirable to make active use of international judicial frameworks for the peaceful settlement of disputes, including the International Court of Justice (ICJ). It is therefore important to universalize acceptance of the compulsory jurisdiction of the ICJ. I should like to call upon States that have not yet done so to accept it as early as possible.

When efforts to seek peaceful solutions to disputes do not bear fruit, the Security Council may resort to sanctions as an important tool to reduce threats to peace and security. Once decided upon by the Council, it is important that all States fully implement sanctions to ensure their effectiveness. Securing due process and transparency and giving due consideration to the human rights aspect in implementing sanctions will lead to the strengthening of their effectiveness. Japan therefore attaches great importance to the establishment, under resolution 1904 (2009), of the Office of the Ombudsperson for the Al-Qaida and Taliban sanctions regime.

Japan also attaches great importance to the promotion of the rule of law for forging a peaceful, free and orderly international society. The rule of law

is in fact at the core of the nation-building process, in particular in post-conflict situations. At the Security Council debate on post-conflict peacebuilding under Japan's presidency in April, the Council emphasized in its presidential statement (S/PRST/2010/7) that the rule of law was a requisite element of sustainable peacebuilding, along with political reconciliation, security, development, social stability and human rights. An integrated approach is essential to strengthening coherence among those elements. Preventing the recurrence of conflict by promoting and strengthening the rule of law is indispensable for effective peacebuilding strategies.

The rule of law in international society has developed not only among the relationships between States, but also in the area of the responsibilities of individuals. In that regard, the Security Council has played a pivotal role in creating international criminal tribunals, such as for Rwanda and the former Yugoslavia. But the establishment of the International Criminal Court (ICC) to punish the perpetrators of the most serious crimes of international concern was epoch-making in the development of the rule of law. The Review Conference of the Rome Statute held recently in Uganda adopted a draft amendment on the crime of aggression. In order for the ICC to better discharge its mandate, it is imperative for States parties to make steady progress on effectiveness, universality and institutional sustainability.

The rule of law is also an essential component of the social framework in the process of post-conflict nation-building. In particular, the legal system is treated as a key soft infrastructure, similar to physical and hard infrastructure such as roads, electricity and other networks. Once created, however, law is neither complete nor able to function automatically, any more than other types of infrastructure. It is a responsibility of all of us to constantly re-examine how the law may best be disseminated, understood and utilized by people.

In that regard, Japan attaches importance to the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. The United Nations Audiovisual Library of International Law, which is part of that Programme and to which Japan has contributed, is an innovative system that enables anyone in the world with Internet access to study lectures by eminent international scholars. We urge everyone to support the programme.

The raison d'être of law lies in implementation and compliance. Every State must implement law and enforce the rule of law within its domestic affairs. States also have the responsibility to observe international law and to be ruled by it. To promote and strengthen the rule of law at the international level, each State must constantly confirm its adherence to the fundamental principle of pacta sunt servanda. Member States are bound by the Charter of the United Nations, including Articles 25 and 94, to faithfully implement the decisions of the Security Council.

Together with dissemination and awareness-raising efforts, we need to build judicial institutions and human capacity to ensure implementation and compliance, particularly in developing countries. To facilitate compliance with the law of the international community, Japan will continue to help in capacity building efforts by developing countries, such as in the areas of drafting laws, creating legal institutions and training legal professionals.

Ms. McLeod (United States of America): I would like to thank you, Mr. President, for having brought this critical debate before the Security Council. I should also like to recognize the statements made by Deputy Secretary-General Migiro and Under-Secretary-General for Legal Affairs Patricia O'Brien.

On a daily basis, we address matters related to the rule of law through much of our work in the Chamber and in the General Assembly, including in the Special Committee on Peacekeeping Operations and the Sixth Committee. We therefore welcome the opportunity to participate in this thematic debate on these critical issues.

The rule of law lies at the heart of my country's democracy. It is also central to the maintenance of international peace and security and the pursuit of global progress. President Obama has said, "In an increasingly interconnected world, legal issues of human rights, criminal justice, intellectual property, business transactions, dispute resolution, human migration and environmental regulation affect us all."

My Government is deeply committed to enduring legal principles: due process, equal protection under law, judicial independence and justice for all. Beyond our fierce dedication to the rule of law at home, we are

also working to support and expand respect for the law and human rights around the world.

As a member of the Security Council, we have worked to ensure that the rule of law is an important component of peacekeeping missions. We have brought that same commitment to the General Assembly committees responsible for operationalizing and financing peacekeeping. By integrating the rule of law into the mandates of peacekeeping and peacebuilding missions and following through on those precepts, the Security Council and the United Nations can help to achieve more lasting, stable and sustainable peace in nations emerging from conflict.

In addition, the United States supports the important work done by the Office of the High Commissioner for Human Rights, particularly its capacity-building activities to strengthen national rule of law systems and respect for human rights around the world. As a member of the Human Rights Council, the United States is working to promote human rights and strengthen international law and to create a more credible Human Rights Council that can be a voice for those suffering under the world's cruelest regimes.

Our commitment to the rule of law is also reflected in our strong support for ratification of the Convention on the Elimination of All Forms of Discrimination against Women and our signing of the Convention on the Rights of Persons with Disabilities — the first new human rights convention of the twenty-first century.

In that the international rule of law does not depend on multilateral discussions alone, international judicial mechanisms can help peacefully resolve conflicts and end impunity.

One such institution is the International Court of Justice, which plays a vital role in the peaceful resolution of international disputes. The United States was pleased that its national group co-nominated Ambassador Xue to fill the seat vacated by the retirement of the distinguished Judge Shi. One of my fellow citizens, Judge Thomas Buergenthal, has also served with great distinction on the Court. He will be retiring effective in September, and I am pleased that the United States national group has nominated as his replacement, Joan Donaghue, the State Department's Principle Deputy Legal Adviser and a lifelong advocate of respect for international law.

The United States strongly supports international tribunals to bring to justice those who commit horrific atrocities. We have been proud to serve on the Management Committees of the Special Court for Sierra Leone and the Special Tribunal for Lebanon and to provide major funding for these two vital tribunals. The United States also recently joined the Steering Committee of the Khmer Rouge Tribunal and announced a major contribution to it. The United States continues to play an active role with the International Tribunals for the Former Yugoslavia and Rwanda, serving on the Security Council's Informal Working Group on International Tribunals as it grapples with the challenges of the successor institutions to those two important bodies.

The United States was pleased to participate as an observer in the first Review Conference of the International Criminal Court's Assembly of States Parties. We did so with a clear recognition that international tribunals such as the International Criminal Court can be an important part of the effort to prevent and combat crimes that shock the universal conscience.

At its heart, the rule of law depends on developing strong domestic institutions around the world. The United States therefore continues to provide strong bilateral support for the rule of law. We are now working with scores of countries, as well as with international and regional organizations, on programming that supports domestic rule of law. For 2011, for instance, the State Department and the United States Agency for International Development have proposed nearly $900 million for rule of law and human rights programmes, a 28 per cent increase from fiscal year 2009.

When we plan our bilateral work, we try to work closely with the United Nations Department of Peacekeeping Operations, donors, other United Nations agencies and non-governmental organizations. The number of actors working on promotion of international rule of law can be daunting, but we must coordinate and prioritize together to provide a better future for host nations.

The responsible departure of United Nations peacekeepers in post-conflict situations often requires improving and expediting United Nations and other efforts to build up national criminal justice sectors and security institutions, which are central to local

authorities' abilities to sustain a hard-won peace on their own. The political development and recovery challenges that post-conflict countries face are often complex, and a broad array of actors may be helping host countries strengthen the rule of law. We must ensure that our efforts are mutually reinforcing and helping to build national capacity. We welcome the Secretary-General's recent efforts to further develop civilian expertise in these areas.

The rule of law is one of the founding values of the United States, and we believe that strengthening the rule of law around the world reinforces peace, progress and security.

Mr. Çorman (Turkey): First of all, I would like to welcome you, Mr. Deputy Minister, and I wish to commend Mexico's presidency for organizing this meeting. I would like to thank to Ms. Asha-Rose Migiro, Deputy Secretary-General, and Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs and Legal Counsel, for their valuable and insightful contributions to today's debate.

The founders of this Organization expressed their resolve to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, in the Preamble to the Charter of the United Nations. Today, we are more than ever bound by their determination and commitment to an international community based on the rule of law.

During the 2005 World Summit, our leaders also reaffirmed their commitment to the purposes and principles of the United Nations Charter and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and they reiterated their determination to foster strict respect for them.

Indeed, upholding the rule of law is an ongoing endeavour, and we Member States, as well as the United Nations, are part of this essential process. We welcome the developments and arrangements made in the Organization for ensuring the coordination, coherence and quality of the work of the United Nations on the rule of law, as we heard this morning from the Deputy Secretary-General and the United Nations Legal Counsel.

One of the primary purposes of our Organization is the maintenance of international peace and security. But what is even more important is the emphasis given to the peaceful settlement of international disputes in a way that will respect international law. Indeed, the Charter clearly indicates that international situations that might lead to a breach of peace should be settled by peaceful means and in conformity with the principles of justice and international law.

In this regard, the role of the International Court of Justice (ICJ), as the principle judicial organ of the United Nations, is of significant importance. The ICJ is one of the key mechanisms available to Member States for the peaceful settlement of their international disputes. We commend the Court for its contribution to this end, as well as its contribution to the evolution of international law.

Today, the diverse and complicated nature of conflicts, the multiplicity of the actors involved, the indivisibility of security and the wide-reaching impact of any conflict irrespective of geographical considerations all require us to pursue a strategic approach to conflict management, with a particular emphasis on the durability of the solutions.

Of course, preventing conflicts is a more desirable approach, and it should continue to be one of the prime objectives of the Organization. However, in cases where prevention is not possible, States should resort to mechanisms available to them for the peaceful settlement of disputes. Furthermore, when conflicts cannot be prevented, adherence to international law, in particular international humanitarian law, is of utmost importance so that the appalling consequences of conflicts can be prevented or at least mitigated.

The rule of law and a properly functioning judicial system appear as the key deterrent factors for potential perpetrators of crimes. Sustainable prevention is possible only if there is no impunity. The international community has a duty to do more in this direction through capacity-building and technical assistance.

In recent years, international criminal justice has evolved and continues to progress through the work of various institutions, such as the International Criminal Court and ad hoc and mixed tribunals. We must not allow a culture of impunity to prevail. Those responsible for atrocities must be brought to justice.

In his speech at the Review Conference in Kampala, the Secretary-General said that the old era of

impunity is over and stressed the birth of a new age of accountability. This new age of accountability should cover all serious crimes of concern to the international community, including terrorism. Moreover, accountability should also be promoted in inter-State relations. Thus, States that violate international law must be held accountable for their acts.

The last point I would like to touch upon is sanctions. As stated by others, a sanctions regime is an important tool in the maintenance of international peace and security. In our view, sanctions should be resorted to only when there is a threat to peace, a breach of peace or an act of aggression and when other peaceful options are inadequate. Sanctions should be resorted to with the utmost caution so as to keep them from being counterproductive. Moreover, sanctions should be carefully targeted in order to minimize adverse consequences on populations and third-party States.

On the other hand, sanctions regimes have undergone some important changes in the recent past. The most recent development is the appointment of an ombudsperson for the Committee established pursuant to resolution 1267 (1999), which we also welcome. Bearing in mind that enhancing the credibility of sanctions regimes would greatly assist in the maintenance of international peace and security, we should continue to focus on how to further strengthen sanctions regimes' legitimacy and overall effectiveness.

In conclusion, I would like to emphasize the collective responsibility of all States to work towards the strengthening of international law, the rule of law and maintenance of peace and security by practicing good governance and accountability as well as observing and implementing all applicable international instruments.

Mr. Moungara Moussotsi (Gabon) (*spoke in French*): Mr. President, my delegation would like to start by welcoming your presence in this debate and to congratulate your country on its initiative to allow the Security Council to again consider the issue of the promotion and strengthening of the rule of law in the maintenance of international peace and security. Your country's choice of this topic is most pertinent, given the central role played by the rule of law in the Council's work, mostly in its efforts to re-establish and build peace in States emerging from conflict.

We also wish to convey our gratitude to Deputy Secretary-General Asha-Rose Migiro for her enriching contribution to our debate and we support her efforts to strengthen the rule of law at the international level, in particular through her coordination of the work of the Rule of Law Coordination and Resource Group. We would also like to thank Ms. Patricia O'Brien, United Nations Legal Counsel, for her enlightening statement.

The Mexican presidency has invited us to speak about the three aspects of our debate: the promotion and strengthening of the rule of law in conflict and post-conflict situations, international justice and the peaceful settlement of disputes, and the efficiency and credibility of the sanctions regimes.

For my delegation, the promotion and strengthening of the rule of law have as their corollary good governance, democracy, respect for human rights and the effective functioning of institutions. Indeed, the authority of the State is fully exercised in a political and institutional environment that guarantees equality for all before the law, respect for human dignity and fundamental freedoms.

We welcome the progress achieved since the holding of the last debate on this issue, held in 2006 (See S/PV.5474). We are thinking in particular of the creation of the Peacebuilding Commission which, since its inception, has contributed, inter alia, to a better taking into account of the primacy of law and transitional justice in peacebuilding processes in post-conflict situations, as seen in Burundi and Sierra Leone.

We also welcome the fact that the Security Council has for some years incorporated into peacekeeping mandates aspects specific to the rule of law, security sector reform, and the strengthening of judicial and penal institutions and political institutions in countries emerging from conflict, which greatly contribute to creating an institutional framework based on the rule of law, without which no lasting peace can prevail.

Similarly, the significant number of resolutions adopted by the Security Council in this field contributes to strengthening the normative framework conducive to the establishment of the rule of law and the protection of populations made vulnerable by conflict, especially women and children. Resolutions 1820 (2008), 1888 (2009), 1889 (2009) and 1894 (2009) bear witness to this fact.

The promotion of the rule of law in nations goes hand in hand with an international justice based on law and peaceful coexistence among States pursuant to Chapter VI of the United Nations Charter. In that respect, the settlement of political and jurisdictional disputes among States strongly contributes to restoring and building peace.

With regard to the modes of diplomatic and political settlements, my country has always encouraged and practiced dialogue and political cooperation in the search for solutions to crises and conflicts. For example, we welcome the subregional mechanisms established in Central Africa to strengthen confidence-building measures among our States and to prevent conflicts, such as the Council for Peace and Security in Central Africa and the United Nations Standing Advisory Committee on Security Questions in Central Africa. Instead of resorting to the use of force, these tools provide real prospects for peace in keeping with the ideals and principles enshrined in the Charter.

Turning now to jurisdictional methods, the role of the International Court of Justice, which is the jurisdictional body par excellence for the peaceful settlement of disputes, is crucial. Its decisions and opinions reaffirm international law as the basis for relations among States rather than the use of force. If applied well, the opinions and rulings of the Court can contribute effectively to the settlement of disputes and thus serve as a necessary tool for the prevention of conflicts. Gabon supports the activities of the Court and encourages countries that have not yet done so to accept its binding jurisdiction.

Our task is to go further still by establishing a genuine culture of rule of law solidly anchored in strong tradition and legal institutions. It is here that the effective administration of justice acquires its true meaning. Action to end impunity must be its ultimate goal. I underscore here the key role played by international criminal tribunals in delivering justice to the victims of grave crimes and violations, as well as other contraventions. At a time when the Council is considering the establishment of residual mechanisms, it is important to preserve the legacy of these tribunals in the promotion of international law and the fight against impunity.

On the effectiveness and credibility of sanctions regimes, my delegation welcomes the Council's increasingly targeted and concerted sanctions, which contribute to enhancing their legitimacy. The appointment of an Ombudsman to ensure in an equitable and transparent way the de-listing procedures of entities and individuals is part and parcel of this approach.

To conclude, my delegation wishes to voice its full support for the adoption of the draft presidential statement that will close our debate.

The President (*spoke in Spanish*): There are still a number of speakers remaining on my list. I therefore intend, with the concurrence of the members of the Council, to suspend the meeting until 3 p.m.

The meeting was suspended at 1.40 p.m.